

105TH CONGRESS
2D SESSION

S. 538

AN ACT

To authorize the Secretary of the Interior to convey certain facilities of the Minidoka project to the Burley Irrigation District, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. CONVEYANCE OF FACILITIES.**

2 (a) DEFINITIONS.—In this section:

3 (1) BURLEY.—The term “Burley” means the
4 Burley Irrigation District, an irrigation district or-
5 ganized under the law of the State of Idaho.

6 (2) DIVISION.—The term “Division” means the
7 Southside Pumping Division of the Minidoka
8 project, Idaho.

9 (3) SECRETARY.—The term “Secretary” means
10 the Secretary of the Interior.

11 (b) CONVEYANCE.—

12 (1) IN GENERAL.—The Secretary shall, without
13 consideration or compensation except as provided in
14 this section, convey to Burley, by quitclaim deed or
15 patent, all right, title, and interest of the United
16 States in and to acquired lands, easements, and
17 rights-of-way of or in connection with the Division,
18 together with the pumping plants, canals, drains,
19 laterals, roads, pumps, checks, headgates, trans-
20 formers, pumping plant substations, buildings,
21 transmission lines, and other improvements or ap-
22 purtenances to the land or used for the delivery of
23 water from the headworks (but not the headworks
24 themselves) of the Southside Canal at the Minidoka
25 Dam and reservoir to land in Burley, including all
26 facilities used in conjunction with the Division (in-

cluding the electric transmission lines used to transmit electric power for the operation of the pumping facilities of the Division and related purposes for which the allocable construction costs have been fully repaid by Burley).

(2) COSTS.—The first \$80,000 in administrative costs of transfer of title and related activities shall be paid in equal shares by the United States and Burley, and any additional amount of administrative costs shall be paid by the United States.

(c) WATER RIGHTS.—

(1) TRANSFER.—(A) Subject to subparagraphs (B) and (C), the Secretary shall transfer to Burley, through an agreement among Burley, the Minidoka Irrigation district, and the Secretary, in accordance with and subject to the law of the State of Idaho, all natural flow, waste, seepage, return flow, and groundwater rights held in the name of the United States—

(i) for the benefit of the Minidoka Project or specifically for the Burley Irrigation District;

(ii) that are for use on lands within the Burley Irrigation District; and

(iii) which are set forth in contracts between the United States and Burley or in the

1 decree of June 20, 1913 of the District Court
2 of the Fourth Judicial District of the State of
3 Idaho, in and for the County of Twin Falls, in
4 the case of Twin Falls Canal Company v.
5 Charles N. Foster, et al., and commonly re-
6 ferred to as the “Foster decree”.

7 (B) Any rights that are presently held for the
8 benefit of lands within both the Minidoka Irrigation
9 District and the Burley Irrigation District shall be
10 allotted in such manner so as to neither enlarge nor
11 diminish the respective rights of either district in
12 such water rights as described in contracts between
13 Burley and the United States.

14 (C) The transfer of water rights in accordance
15 with this paragraph shall not impair the integrated
16 operation of the Minidoka Project, affect any other
17 adjudicated rights, or result in any adverse impact
18 on any other project water user.

19 (2) ALLOCATION OF STORAGE SPACE.—The
20 Secretary shall provide an allocation to Burley of
21 storage space in Minidoka Reservoir, American Falls
22 Reservoir, and Palisades Reservoir, as described in
23 Burley Contract Nos. 14–06–100–2455 and 14–06–
24 W–48, subject to the obligation of Burley to con-
25 tinue to assume and satisfy its allocable costs of op-

1 eration and maintenance associated with the storage
2 facilities operated by the Bureau of Reclamation.

3 (d) PROJECT RESERVED POWER.—The Secretary
4 shall continue to provide Burley with project reserved
5 power from the Minidoka Reclamation Power Plant, Pali-
6 sades Reclamation Power Plant, Black Canyon Reclama-
7 tion Power Plant, and Anderson Ranch Reclamation
8 Power Plant in accordance with the terms of the existing
9 contracts, including any renewals thereof as provided in
10 such contracts.

11 (e) SAVINGS.—

12 (1) Nothing in this Act or any transfer pursu-
13 ant thereto shall affect the right of Minidoka Irriga-
14 tion District to the joint use of the gravity portion
15 of the Southside Canal, subject to compliance by the
16 Minidoka Irrigation District with the terms and con-
17 ditions of a contract between Burley and Minidoka
18 Irrigation District, and any amendments or changes
19 made by agreement of the irrigation districts.

20 (2) Nothing in this Act shall affect the rights
21 of any person or entity except as may be specifically
22 provided herein.

23 (f) LIABILITY.—Effective on the date of conveyance
24 of the project facilities, described in section (1)(b)(1), the
25 United States shall not be held liable by any court for

1 damages of any kind arising out of any act, omission, or
2 occurrence relating to the conveyed facilities, except for
3 damages caused by acts of negligence committed by the
4 United States or by its employees, agents, or contractors
5 prior to the date of conveyance. Nothing in this section
6 shall be deemed to increase the liability of the United
7 States beyond that currently provided in the Federal Tort
8 Claims Act, 28 U.S.C. 2671 et seq.

9 (g) COMPLETION OF CONVEYANCE.—

10 (1) IN GENERAL.—The Secretary shall complete
11 the conveyance under subsection (b) (including such
12 action as may be required under the National Envi-
13 ronmental Policy Act of 1969 (42 U.S.C. 4321 et
14 seq.)) not later than 2 years after the date of enact-
15 ment of this Act.

16 (2) REPORT.—The Secretary shall provide a re-
17 port to the Committee on Resources of the United
18 States House of Representatives and to the Commit-
19 tee on Energy and Natural Resources of the United
20 States Senate within eighteen months from the date
21 of enactment of this Act on the status of the trans-
22 fer, any obstacles to completion of the transfer as

- 1 provided in this section, and the anticipated date for
- 2 such transfer.

Passed the Senate June 25, 1998.

Attest:

Secretary.

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